

Congress of the United States
Washington, DC 20515

October 31, 2019

Richard K. Delmar
Acting Inspector General
U.S. Department of Treasury
Office of Inspector General
1500 Pennsylvania Avenue, N.W.
Room 4436,
Washington, DC 20220

Dear Inspector General Delmar,

We write to express our deep concern surrounding allegations of misconduct by senior officials within the Department of Treasury in the implementation of the 2017 Opportunity Zone tax incentive (P.L. 115-97). We request that the Department of Treasury's Inspector General initiate an investigation into allegations raised in recent news reports of possible misconduct by White House and Treasury Department officials. We urge the Inspector General to do a complete review of all Treasury Department certified Opportunity Zones for eligibility requirement conformance and provide details on actions taken by agency officials not in compliance with the Opportunity Zones guidelines. Further, we request that the Inspector General assist in determining if there was any misconduct by private individuals and/or groups in violation of U.S. law, regulation, or legal holding by gathering and furnishing to enforcement authorities and Congress all relevant information on Opportunity Zone designation and regulation for review.

Following several news reports of possible wrongdoing in the implementation of Opportunity Zones, which was drafted and supported by our offices, we find it crucial that the Office of Inspector General investigate these allegations. The underlying legislation, the *Investing in Opportunity Act*, was intended to support the growth and revitalization of our nation's most economically underserved communities. It was not the intent of Congress for this tax incentive to be used to enrich political supporters or personal friends of senior administration officials, as recent reports indicate.

Congress provides an important oversight role as part of the checks and balances of our democracy and that includes the Administration's implementation of federal programs. With that in mind, we found the New York Times (NYT) report published earlier this week very distributing, especially the assertion of alleged widespread misconduct and corruption at the Treasury Department, and, in some instances, possibly under the personal direction of Secretary Steven Mnuchin himself.¹ The *Tax Cuts and Jobs Act* established a process by which governors from each state would nominate high-poverty census tracts in their respective states, to ensure that the place-based tax incentive would best meet the needs of their communities. Treasury was to then certify that the governor-nominated tracts met the criteria for Qualified Opportunity Zones (QOZs). The NYT report revealed that a controversial² reversal regarding the eligibility of a Nevada QOZ was driven by politics and personal relationships at the expense of low-income communities. Despite originally declaring the Nevada tract ineligible, months of heavy lobbying by wealthy investors led to the "unusual decision [being] made at the personal instruction of Mr. Mnuchin" to allow for Storey County to be made eligible.

¹ <https://www.nytimes.com/2019/10/26/business/michael-milken-trump-opportunity-zones.html>

² https://www.washingtonpost.com/business/economy/after-nevada-gop-push-treasury-quietly-changed-policy-benefiting-one-county/2018/06/22/d142acfc-74c5-11e8-b4b7-308400242c2e_story.html

The recent reporting revealed that officials at Treasury, the Internal Revenue Service (IRS), and the Community Development Financial Institutions Fund (CDFI), all expressed opposition to the decision: Annie Donovan, who previously ran the Treasury office in charge of designating areas as Opportunity Zones, said Treasury officials were “troubled” by the unusual action by the Secretary. An internal memo to the Treasury Secretary warned that such a reversal would “[open] the door for accusation that the determination process was influenced by political consideration or bias”.³ Despite these warnings from staff, Secretary Mnuchin instructed Treasury officials to allow the otherwise ineligible tract to qualify for the incentive. If the Treasury Department provided a stamp of approval as a political favor, it is not only unacceptable, but in complete violation of the congressional intent of the Opportunity Zones.

This report follows an October 24, 2019 ProPublica article⁴ on Dan Gilbert, founder of Quicken Loans, that alleged coordination with White House officials to ensure his real estate properties were included in a designated opportunity zone. In an email obtained by ProPublica, Michigan economic development official, Christine Roeder, asked her colleague to call Quicken Loans’ executive vice president for government affairs about opportunity zones and writing, “They worked with the White House on it and want to be sure we are coordinated.” The article highlights that less than two weeks after the email was written, the Trump administration revised its list of census tracts that were eligible for the tax break.


We urge the Inspector General to do a complete review of all Treasury Department certified Opportunity Zones for eligibility requirement conformance. We further request that the Inspector General collect any and all communication, including but not limited to government records, notes, correspondence, and call logs, between the Treasury Department, White House administration officials, and outside entities on the subject matter of designation of census tracts as Opportunity Zones. Additionally, we request any and all communication regarding the drafting of regulations related to Opportunity Zones between the date enactment of PL 115-97 and July 15, 2019. This information should be furnished to appropriate federal enforcement agencies and Congress for review. It is imperative the Inspector General determines if any Treasury Department official helped circumvent policy or practice to personally assist a business or individual.

If any of these allegations prove to be true, it would be a perverse violation of public trust, a distortion of congressional intent, and a violation of federal law. We urge the Inspector General’s office to conduct a thorough and complete investigation of these allegations, report to Congress as well as appropriate enforcement entities your findings with all deliberate speed.



Emanuel Cleaver, II
Member of Congress

Sincerely,



Cory A. Booker
United States Senator



Ron Kind
Member of Congress

³ <https://www.documentcloud.org/documents/6521520-2018-05-16-IRS-Objection-Memo-Re-Nevada-Request.html>

⁴ <https://www.propublica.org/article/how-a-tax-break-to-help-the-poor-went-to-nba-owner-dan-gilbert>